

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Newport News Division

UNITED STATES OF AMERICA

v.

4:06CR103

ROBERT LEE BARNES, III

Defendant.

REPORT AND RECOMMENDATION
CONCERNING GUILTY PLEA

Defendant, by consent, has appeared before the undersigned pursuant to Rule 11, Federal Rules of Criminal Procedure, and referral from a United States District Judge and has entered guilty pleas to all counts in a criminal information, charging him with possession of cocaine with intent to distribute (Count 1), being a felon in possession of a firearm (Count 2), and corruptly influencing and attempting to influence the testimony of a witness (Count 3), in violation of 21 U.S.C. §§ 841(a)(1); 18 U.S.C. 922(g)(1); and 18 U.S.C. 1512.

Defendant was represented by retained counsel, David B. Olson, Esquire. On September 26, 2006, defendant appeared before the Court for the purpose of entering his guilty plea. He was appropriate in appearance, responsive, and competently prepared for the hearing.

Defendant answered all questions put to him in clear and concise language. On the record, defendant waived his right to indictment in writing and gave consent to proceeding on a three-count information. On those occasions when he had a question, defendant consulted with counsel and then promptly answered. Defendant was courteous and appropriate in his behavior at all times and clearly understood the seriousness of his position. At the close of the

proceeding, defendant was remanded to the custody of the United States Marshal, pending completion of a presentence report.

Defendant is thirty-two years of age, has a high school diploma and completed three semesters of college, and speaks English as his native language. There was no evidence that defendant was on drugs, alcohol, or medication which might impair his judgment. He was cooperative throughout the proceeding.

Defendant entered the guilty plea pursuant to a plea agreement. The Court is completely satisfied, based upon defendant's responses, that he fully appreciates his position. Furthermore, he acknowledged that the statement of facts prepared in anticipation of his plea accurately reflects the government's evidence, in the event of trial.

After cautioning and examining defendant under oath concerning each of the subjects mentioned in Rule 11, the Court determined that the offenses charged are supported by independent facts, establishing each of the essential elements of such offense. Therefore, the Court recommends that the guilty plea be accepted and that defendant be adjudged guilty and have sentence imposed accordingly.

Failure to file written objections to this report and recommendation within ten days from the date of its service shall bar an aggrieved party from attacking such report and recommendation before the assigned United States District Judge. 28 U.S.C. § 636(b)(1)(B).

/s/

James E. Bradberry
United States Magistrate Judge

Norfolk, Virginia
September 28, 2006

Clerk's Mailing Certificate

A copy of the foregoing Report was mailed this date to each of the following:

David B. Olson, Esquire
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Fernando Galindo, Acting Clerk

By _____
Deputy Clerk

_____, 2006